

CS-01-132

fw



September 10, 2004

To: Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Attn: Art Unit 2812 - Walter L. Lindsay Jr.

From: George O. Saile, Reg. No. 19,572

28 Davis Avenue

Poughkeepsie, N. Y., 12603

Subject: | Serial No.: 10/664,211 09/17/03 |

Purakh Raj Verma et al.

A METHOD OF MAKING DIRECT CONTACT ON
GATE BY USING DIELECTRIC STOP LAYER

|_ Art Group: 2812 Walter L. Lindsay Jr._|

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Restriction or Election
Requirement in the Office Action dated 08/23/04. In that
Office Action, restriction was required to one of two stated

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal Service as first class
mail in an envelope addressed to: Commissioner for Patents,
P.O. Box 1450, Alexandria, VA 22313-1450, on September 14, 2004.

Stephen B. Ackerman, Reg.# 37761

Signature/Date

SPB 9/14/04

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 17-22 to a MOSFET, classified in Class 257, subclass 1+ and Group II - Claims 1-16 to a process, classified in Class 438, subclass 100.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claims 1-16 drawn to a process classified in Class 438, subclass 100. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "a MOSFET device structure" and the process Claims are directed to "a method of forming a gate contact in a MOSFET device", it is necessary to obtain claims in both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method

class/subclass 438/100 and products class 257/1+ in addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "In the instant case unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group I invention could be made by processes materially different from those of the group II invention, for example, the first dielectric layer of the device does not have to undergo planarization", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,

A handwritten signature in black ink, appearing to be 'SBA', written over a horizontal line.

Stephen B. Ackerman, Reg. #37761